

2013 DRAFTING REQUEST

Bill

Received: **11/18/2013** Received By: **fknepp**
Wanted: **As time permits** Same as LRB: **-4315**
For: **Jim Steineke (608) 266-2418** By/Representing: **Jon Turke**
May Contact: Drafter: **fknepp**
Subject: **Real Estate - plats** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Steineke@legis.wisconsin.gov**
Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov**
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Surety for necessary public improvements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 11/26/2013	scalvin 12/9/2013		_____			
/P1	fknepp 1/9/2014		rschluet 12/9/2013	_____	lparisi 12/9/2013		
/P2	fknepp 2/12/2014	scalvin 1/28/2014	rschluet 1/28/2014	_____	sbasford 1/28/2014		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	fknepp 2/16/2014	scalvin 2/12/2014	rschluet 2/13/2014	_____ _____	mbarman 2/13/2014		
/1	fknepp 2/21/2014	scalvin 2/17/2014	rschluet 2/17/2014	_____ _____	sbasford 2/17/2014	mbarman 2/21/2014	

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	11/18/2013	Received By:	fknepp
Wanted:	As time permits	Same as LRB:	
For:	Jim Steineke (608) 266-2418	By/Representing:	Jon Turke
May Contact:		Drafter:	fknepp
Subject:	Real Estate - plats	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Steineke@legis.wisconsin.gov**
 Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov**
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Surety for necessary public improvements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 11/26/2013	scalvin 12/9/2013		_____			
/P1	fknepp 1/9/2014		rschluet 12/9/2013	_____	lparisi 12/9/2013		
/P2	fknepp 2/12/2014	scalvin 1/28/2014	rschluet 1/28/2014	_____	sbasford 1/28/2014		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	fknepp 2/16/2014	scalvin 2/12/2014	rschluet 2/13/2014	_____ _____	mbarman 2/13/2014		
/1		scalvin 2/17/2014	rschluet 2/17/2014	_____ _____	sbasford 2/17/2014		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 11/18/2013 Received By: fknepp
Wanted: As time permits Same as LRB:
For: Jim Steineke (608) 266-2418 By/Representing: Jon Turke
May Contact: Drafter: fknepp
Subject: Real Estate - plats Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Steineke@legis.wisconsin.gov
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

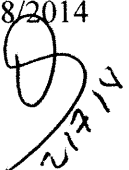
Surety for necessary public improvements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 11/26/2013	scalvin 12/9/2013		_____			
/P1	fknepp 1/9/2014		rschluet 12/9/2013	_____	lparisi 12/9/2013		
/P2	fknepp 2/12/2014	scalvin 1/28/2014	rschluet 1/28/2014	_____	sbasford 1/28/2014		



<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/P3		scalvin 2/12/2014	rschluet 2/13/2014	_____	mbarman 2/13/2014		
-----	--	----------------------	-----------------------	-------	----------------------	--	--

FE Sent For:		/1 SAC 02/17/2014	/1 SAC 02/17/2014				
--------------	--	----------------------	----------------------	--	--	--	--

<END>

2013 DRAFTING REQUEST

Bill

Received: 11/18/2013 Received By: fknepp
Wanted: As time permits Same as LRB:
For: Jim Steineke (608) 266-2418 By/Representing: Jon Turke
May Contact: Drafter: fknepp
Subject: Real Estate - plats Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Steineke@legis.wisconsin.gov
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Surety for necessary public improvements ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 11/26/2013	scalvin 12/9/2013		_____			
/P1	fknepp 1/9/2014		rschluet 12/9/2013	_____	lparisi 12/9/2013		
/P2		scalvin 1/28/2014	rschluet 1/28/2014	_____	sbasford 1/28/2014		

/P3 sac
02/12/2014

/P3 sac
02/12/2014



FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 11/18/2013 Received By: fknepp
Wanted: As time permits Same as LRB:
For: Jim Steineke (608) 266-2418 By/Representing: Jon Turke
May Contact: Drafter: fknepp
Subject: Real Estate - plats Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Steineke@legis.wisconsin.gov
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Surety for necessary public improvements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 11/26/2013	scalvin 12/9/2013					
/P1			rschluet 12/9/2013		lparisi 12/9/2013		
FE Sent For:	/P2 SAC 01/28/2014	/P2 SAC 01/28/2014					

<END>

2013 DRAFTING REQUEST

Bill

Received: **11/18/2013** Received By: **fknepp**
 Wanted: **As time permits** Same as LRB:
 For: **Jim Steineke (608) 266-2418** By/Representing: **Jon Turke**
 May Contact: Drafter: **fknepp**
 Subject: **Real Estate - plats** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Steineke@legis.wisconsin.gov**
 Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov**
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

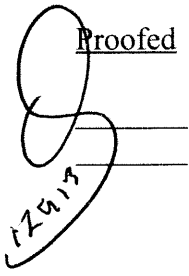
Topic:

Surety for necessary public improvements ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp	/PI sac 12/09/2013	/PI sac 12/09/2013				

FE Sent For:

<END>

Jon - Send this in for drafting please

- **Standby Letter of Credit/ Surety required for dedicated improvements.** An amendment be made to Wis. Stat. section 236.13 (2)(a) which addresses the issue of surety being posted in connection with the construction of public improvements. Specifically, we would suggest the following sentence be added to that subsection: "At the time of substantial completion of the public improvements, the governing body may require that surety or other security for the improvement be maintained (i) for a period of not more than 12 months thereafter in order to cover any guarantee or warranty obligation and (ii) in an amount not greater than the actual cost of the remaining public improvements that need to be completed and 10% of the original amount of the public improvements completed. Substantial completion means at the time the binder coat is installed on the roads to be dedicated or, if there are no roads to be dedicated, at the time that 90% of the public improvements by cost have been completed. The governing body shall accept as surety a letter of credit, a performance bond or other surety acceptable to the governing body."
- **Annexations.** Revise Wis. Stat. sec. 66.0217 to strike Sections 6(a), (b), and (c). This is the section that requires notice of an annexation to be sent to the Department of Administration and a fee paid for an advisory opinion from it that the annexation is in the public interest. The municipalities may accept or ignore the Department's advice, which makes it a waste of money. The review fee ranges from \$200 to \$4,000 depending on the acreage. This does not eliminate 6(d), which gives the Town's standing in limited circumstances to challenge annexations.
- **Recapture of fees.** Revise Wis. Stat. sec. 236.13 to include a section that states that any time that public improvements are dedicated to a municipality, the municipality shall enter into a recapture agreement with the subdivider requiring payment of recapture costs of public improvements from those properties benefiting from the improvements. The City shall collect the payment prior to allowing any development on those benefitting properties for 20 years from the date of dedication, and pay it to the subdivider.
- **Subdivision Approval.** Revise Wis. Stat. 236.11 to require that the approving authority provide the subdivider any comments or conditions of approval relating to a preliminary plat within 60 days of submission and relating to the final plat within 45 days of submission if the comments or conditions require revisions by the subdivider to obtain approval.



State of Wisconsin
2013 - 2014 LEGISLATURE

In 11-26



LRB-3667

FFK: /P1
RMR
SAC

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 *general* AN ACT *general*; relating to: conditioning an approval of a plat on additional security
2 for certain public improvements.

Analysis by the Legislative Reference Bureau

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to plat. A plat is a map of a subdivision, which is defined under current law as a division of a unit of land by an owner for the purpose of a sale or development and the sale or development results in at least five individual parcels or building sites. Generally, the location of the subdivision determines which approving authority or authorities have the right to approve or reject the plat.

Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made. This bill authorizes, as an additional condition of approval, an approving authority to require the subdivider to provide a certain amount of additional security for up to 12 months following the substantial completion of the public improvements. The additional security may be provided in the form of a security bond, a performance bond, a letter of credit, or any other form of surety acceptable to the governing body. The bill defines substantial completion as when the binder coat is installed on roads to be dedicated or in a case where no roads are to be dedicated, when 90 percent of the public improvements by cost are completed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓
1 **SECTION 1.** 236.13 (2) (am) of the statutes is created to read:

2 236.13 (2) (am) 1. As a further condition of approval, the governing body of the
3 town or municipality within which the subdivision lies may require that after the
4 public improvements required under par. (a) are substantially completed the
5 subdivider maintain a surety bond or provide other security, including a letter of
6 credit, a performance bond, or any other surety acceptable to the governing body, for
7 up to 12 months following the substantial completion of the public improvements for
8 all of the following:

 ****NOTE: Current law provides an option for a subdivider to "execute a surety bond or provide other security to ensure that he or she will make those improvements within a reasonable time." As drafted, this provision would require additional security at the time the public improvements are substantially completed even if the subdivider has already provided security to ensure that the improvements are made within a reasonable time. Is this consistent with your intent?

9 a. An amount to cover any guarantee or warranty obligations provided by the
10 subdivider related to the completed public improvements.

11 b. An amount equal to the total cost to complete any public improvements that
12 are not completed plus 10 percent of the total cost of the completed public
13 improvements.

14 2. For purposes of this paragraph, the public improvements required under par.
15 (a) are considered to be substantially completed at the time the binder coat is
16 installed on roads to be dedicated or, if the public improvement^s under par. (a) do not
17 include roads to be dedicated, at the time that 90 percent of the public improvements
18 by cost are completed.

*
 ****NOTE: Do all roads have a binder coat installed? Will all the necessary parties know and agree to what a "binder coat" is? If not, under this language, some public improvements may never be "substantially completed." Also, I noticed there is a statutory reference to a "seal coat" in s. 86.31(2) (h) is that the same thing as a binder coat?

19 **SECTION 2. Initial applicability.**

(END)

that is submitted

Knepp, Fern

From: Robert C. Procter <RProcter@axley.com>
Sent: Monday, January 20, 2014 11:48 AM
To: Knepp, Fern
Subject: RE: Plat legislation

Yes.

From: Knepp, Fern [<mailto:Fern.Knepp@legis.wisconsin.gov>]
Sent: Monday, January 20, 2014 11:21 AM
To: Robert C. Procter
Subject: RE: Plat legislation

I am thinking I can add the limitation to section s. 236.13 (2) (a) and say something like, "if a governing body of a town or municipality requires a surety bond or other security under this paragraph, the amount of the surety bond or security may be no more than..." Does something like that sound OK?

Fern

From: Robert C. Procter [<mailto:RProcter@axley.com>]
Sent: Monday, January 20, 2014 11:12 AM
To: Knepp, Fern
Cc: Brad Boycks
Subject: RE: Plat legislation

Hi Fern:

Thanks for checking back. There is really not a good answer. My understanding is that municipalities read the or as follows: (1) if the municipality is going to construct the improvements itself, then it may require surety; or (2) the municipality can require the developer to construct the improvements. If the municipalities choose number 2, the municipalities take the position that they implicitly can require surety to be held to insure that the developer constructs the improvements correctly.

We are not looking to revise the statute to clarify whether or not the municipality can require surety if the developer is constructing the improvements. Instead, we are looking to limit what is required.

I am open to your thoughts how to address the ambiguity between the statute and practice.

Attorney Robert C. Procter
Axley Brynson, LLP
d: 608.283.6762 | c: 608.962.8270
RProcter@axley.com

V-CARD | WEB | MAP

2 E. Mifflin St., Ste 200 • Madison, WI 53703 • P.O. Box 1767 • 53701-1767 • Fax: 608.257.5444

Unless otherwise indicated or obvious from the nature of this transmittal, the information in this transmission is confidential and protected from disclosure by the attorney-client privilege, attorney work-product doctrine, privacy laws, or by its proprietary nature. This transmission is intended for the exclusive use of the named recipient. If you are not the named recipient or responsible to deliver it to the named recipient, you are notified that any use, copying, disclosure, dissemination, or other distribution of the information is strictly prohibited and you may be subject to legal restrictions or sanctions. If you have received this communication in error or are not sure whether it is confidential, please immediately notify us by return email or telephone at (608) 257-5661 and destroy all copies. To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Knepp, Fern [<mailto:Fern.Knepp@legis.wisconsin.gov>]

Sent: Monday, January 20, 2014 11:08 AM

To: Robert C. Procter

Subject: Plat legislation

Robert:

I wanted to check in with you regarding the draft I am working on for Rep. Steineke related to plat approvals. I believe you were going to check with some other interested parties about how you would like to handle the existing "or" in s. 236.13 (2) (a). Please let me know, when you are ready for me to proceed with the draft.

Thanks so much,
Fern

Fern F. Knepp

Legislative Attorney

Wisconsin Legislative Reference Bureau

P.O. Box 2037

Madison, WI 53701-2037

(608) 261-6927

fern.knepp@legis.wisconsin.gov

Knepp, Fern

From: Turke, Jon
Sent: Tuesday, January 07, 2014 9:33 AM
To: Mueller, Eric; Knepp, Fern
Subject: Drafter Note responses

Eric and Fern-

I have responses from the builders to your drafter's notes below for LRBs 3666 and 3667. Please let me know if you have any further questions!

Here are my comments for LRB-3667/P1:

Response to drafter's note as to section 236(2)(am)1.: The drafter's note articulates a problem. The intent IS NOT to require additional surety. The intent of this provision is to allow at the subdivider's option to either use a letter of credit or a performance bond. A municipality should not be able to say that it wants a cash deposit, or that it rejects a letter of credit, etc.

Also, subpart a. and b. do not work correctly with each other. The intent is that the approving authority may require surety for up to a 12 month period after substantial completion to cover any guarantee or warranty obligations. The surety amount that it may require is limited to the total cost of any public improvements that are not completed plus 10 percent of the total cost of the completed public improvements.

For example, if the total cost of the public improvements that are not complete is \$100,000, and the total cost of the completed improvements are \$1,000,000, then the approving authority may require surety for up to 12 months from the date of substantial completion not to exceed \$100,000 to complete the unfinished improvements and \$100,000 for the completed improvements (10% of the completed improvements) for a total of \$200,000.

As to the second note: All roads get a "binder coat", and everyone will know what that is (i.e., engineers, builders, municipalities, etc.). The "seal coat" is not the same thing. The seal coat comes after the binder coat.

Responding to the drafter's notes for LRB-3666/1dn:

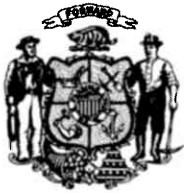
Drafter note 1: That is correct, it should be repealed.

Drafter note 2: I agree with the drafter.

Drafter Note 3: I am ok if 66.0217(6)(b) is not affected by this draft and that the language remains on the books (it requires DOA to maintain professionals' contact information on its website that can help mediate land disputes)

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3667/P2

FFK:sac:fs

In 1-23-14

SOON

stop
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT** *gen cat* *Insert-Relating clause* **to create** 236.13 (2) (am) of the statutes; **relating to** conditioning an
2 approval of a plat on additional security for certain public improvements.

Analysis by the Legislative Reference Bureau

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to plat. A plat is a map of a subdivision, which is defined under current law as a division of a unit of land by an owner for the purpose of a sale or development and the sale or development results in at least five individual parcels or building sites. Generally, the location of the subdivision determines which approving authority or authorities have the right to approve or reject the plat.

Analysis Insert
Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made. This bill authorizes, as an additional condition of approval, an approving authority to require the subdivider to provide a certain amount of additional security for up to 12 months following the substantial completion of the public improvements. The additional security may be provided in the form of a security bond, a performance bond, a letter of credit, or any other form of surety acceptable to the governing body. The bill defines substantial completion as when the binder coat is installed on roads to be dedicated or, in a case where no roads are to be dedicated, when 90 percent of the public improvements by cost are completed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

→ Ins. Page 2

SECTION 1. 236.13 (2) (am) of the statutes is created to read:

236.13 (2) (am) 1. As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that after the public improvements required under par. (a) are substantially completed the subdivider maintain a surety bond or provide other security, including a letter of credit, a performance bond, or any other surety acceptable to the governing body, for up to 12 months following the substantial completion of the public improvements for all of the following:

****NOTE: Current law provides an option for a subdivider to "execute a surety bond or provide other security to ensure that he or she will make those improvements within a reasonable time." As drafted, this provision would require additional security at the time the public improvements are substantially completed even if the subdivider has already provided security to ensure that the improvements are made within a reasonable time. Is this consistent with your intent?

a. An amount to cover any guarantee or warranty obligations provided by the subdivider related to the completed public improvements.

b. An amount equal to the total cost to complete any public improvements that are not completed plus 10 percent of the total cost of the completed public improvements.

2. For purposes of this paragraph, the public improvements required under par. (a) are considered to be substantially completed at the time the binder coat is installed on roads to be dedicated or, if the public improvements under par. (a) do not include roads to be dedicated, at the time that 90 percent of the public improvements by cost are completed.

****NOTE: Do all roads have a binder coat installed? Will all the necessary parties know and agree to what a "binder coat" is? If not, under this language, some public improvements may never be "substantially completed." Also, I noticed there is a statutory reference to a "seal coat" in s. 86.31(2) (h); is that the same thing as a binder coat?

SECTION 2. Initial applicability.

1 (1) This act first applies to a preliminary plat or, if no preliminary plat is
2 submitted, a final plat, that is submitted on the effective date of this subsection.

3 (END)

Relating clause

1 limiting the security a town or municipality may require as a condition of

2

no
approving a plat approval
approving a plat

End Relating clause

ANALYSIS INSERT

no
Under the bill, upon substantial completion of the required public improvements, an approving authority may not require a subdivider to maintain a surety bond or other security in an amount that is more than (a) the total value of any guarantees or warranty obligations related to the completed public improvements or (b) the total cost to complete any public improvements that are not completed plus ten percent of the total cost of the completed public improvements, whichever is less. Additionally, the approving authority may not require the subdivider to maintain a surety bond or other security for more than 12 months from the date the public improvements are substantially completed.

END ANALYSIS INSERT

INS. PAGE 2

3 **SECTION 1.** 236.13 (2) (a) of the statutes is renumbered 236.13 (2) (a) 1. (intro.)

4 and amended to read:

5 236.13 (2) (a) 1. (intro.) As a further condition of approval, the governing body
6 of the town or municipality within which the subdivision lies may require that the
7 subdivider make and install any public improvements reasonably necessary or that
8 the subdivider execute a surety bond or provide other security to ensure that he or
9 she will make those improvements within a reasonable time. The subdivider may
10 construct the project in such phases as the governing body approves, which approval
11 may not be unreasonably withheld. If the subdivider's project will be constructed in
12 phases, the amount of any surety bond or other security required by the governing
13 body shall be limited to the phase of the project that is currently being constructed.

1 The governing body may not require that the subdivider provide any security for
2 improvements sooner than is reasonably necessary before the commencement of the
3 installation of the improvements. If the governing body of the town or municipality
4 requires a subdivider to execute a surety bond or provide other security under this
5 paragraph, the governing body may not require the subdivider to maintain the
6 surety bond or other security for more than 12 months after the date the public
7 improvements are substantially completed and upon substantial completion of the
8 public improvements, the amount of the surety bond or other security that the
9 subdivider is required to maintain may be no more than the lesser of the following:

****NOTE: Please consider whether this language will achieve your intent in situations where the subdivider is constructing the project in phases.

History: 1977 c. 29 ss. 1384, 1654 (8) (c); 1977/c. 162; 1979 c. 221, 243; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30; 2007 a. 44; 2009 a. 372, 376; 2011 a. 32, 146.

10 **SECTION 2.** 236.13 (2) ^(a) ~~(am)~~ 1. a. and b. of the statutes are created to read:

11 236.13 (2) ^(a) ~~(am)~~ 1. a. An amount that is equal to the total value of any
12 guarantees or warranties related to the completed public improvements.

13 b. An amount equal to the total cost to complete any ^{uncompleted} public improvements ~~that~~
14 ~~are not complete~~ plus 10 percent of the total cost of the completed public
15 improvements.

16 **SECTION 3.** 236.13 (2) ^(a) ~~(am)~~ 2. of the statutes is created to read:

17 236.13 (2) ^(a) ~~(am)~~ 2. For purposes of subd. 1., public improvements required
18 under this paragraph are considered to be substantially completed at the time the
19 binder coat is installed on roads to be dedicated or, if the required public
20 improvements do not include a road to be dedicated, at the time that 90 percent of
21 the public improvements by cost are completed.

Knepp, Fern

From: Turke, Jon
Sent: Friday, February 07, 2014 9:57 AM
To: Knepp, Fern
Subject: RE: 3667/P2

So I lied...

Created section 236(2)(a)1.a. says "An amount that is equal to the total value of any guarantees or warranties related to the completed public improvements." The builders are not sure what that means, and don't know why it's included. Please have it deleted.

Have a good weekend!

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418

From: Knepp, Fern
Sent: Friday, February 07, 2014 8:26 AM
To: Turke, Jon
Subject: RE: 3667/P2

Thanks, Jon. I will add that language.

From: Turke, Jon
Sent: Thursday, February 06, 2014 4:43 PM
To: Knepp, Fern
Subject: RE: 3667/P2

One more thing Fern...hopefully ☺

Please add language that provides that the most that the surety can be at any time (i.e. before construction begins) is 110% of the total construction costs of the public improvements.

Thank you!

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418

From: Knepp, Fern
Sent: Tuesday, February 04, 2014 1:33 PM
To: Turke, Jon
Subject: RE: 3667/P2

Thanks, Jon. Sorry, I misunderstood the instructions. I thought the direction to include language about the surety bond or letter of credit was in response to a question I asked about a section that was removed from the bill. I will add that language to the next draft.

Fern

From: Turke, Jon
Sent: Tuesday, February 04, 2014 10:35 AM
To: Knepp, Fern
Subject: 3667/P2

Hey Fern-

A couple of notes on this draft:

The 12 month limitation applies to each phase. If we could make the clear in the bill that would be great.

Also, there was supposed to be a section that made it clear that the subdivider could provide surety bond or letter of credit, at the subdivider's choice. Some municipalities have refused to accept surety bonds.

Thanks!

Jon Turke
Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418

Knepp, Fern

From: Turke, Jon
Sent: Tuesday, February 04, 2014 2:19 PM
To: Knepp, Fern
Subject: RE: 3667/P2

Thank you Fern! No problem

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418

From: Knepp, Fern
Sent: Tuesday, February 04, 2014 1:33 PM
To: Turke, Jon
Subject: RE: 3667/P2

Thanks, Jon. Sorry, I misunderstood the instructions. I thought the direction to include language about the surety bond or letter of credit was in response to a question I asked about a section that was removed from the bill. I will add that language to the next draft.

Fern

From: Turke, Jon
Sent: Tuesday, February 04, 2014 10:35 AM
To: Knepp, Fern
Subject: 3667/P2

Hey Fern-

A couple of notes on this draft:

The 12 month limitation applies to each phase. If we could make the clear in the bill that would be great.

Also, there was supposed to be a section that made it clear that the subdivider could provide surety bond or letter of credit, at the subdivider's choice. Some municipalities have refused to accept surety bonds.

Thanks!

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3667/P2

FFK:sac: [signature]

RML

In 2-12
gub 2-14

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- gen cat*
- 1 **AN ACT** *to renumber and amend* 236.13 (2) (a); and *to create* 236.13 (2) (a) 1.
2 a. and b. and 236.13 (2) (a) 2. of the statutes; **relating to:** limiting the security
3 a town or municipality may require as a condition of plat approval.

Analysis by the Legislative Reference Bureau

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to plat. A plat is a map of a subdivision, which is defined under current law as a division of a unit of land by an owner for the purpose of a sale or development and the sale or development results in at least five individual parcels or building sites. Generally, the location of the subdivision determines which approving authority or authorities have the right to approve or reject the plat.

Analysis Insert

~~Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made. Under the bill, upon substantial completion of the required public improvements, an approving authority may not require a subdivider to maintain a surety bond or other security in an amount that is more than (a) the total value of any guarantees or warranty obligations related to the completed public improvements or (b) the total cost to complete any public improvements that are not completed plus ten percent of the total cost of the completed public improvements, whichever is less. Additionally, the approving authority may not require the subdivider to maintain a surety bond or other security for more than 12 months from the date the public improvements are substantially completed. The bill defines substantial completion as when the binder coat is~~

installed on roads to be dedicated or, in a case where no roads are to be dedicated, when 90 percent of the public improvements by cost are completed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 236.13 (2) (a) of the statutes is renumbered 236.13 (2) (a) 1. (intro.)

2 and amended to read:

3 236.13 (2) (a) 1. (intro.) As a further condition of approval, the governing body

4 of the town or municipality within which the subdivision lies may require that the

5 subdivider make and install any public improvements reasonably necessary or that

6 the subdivider ~~execute a surety bond or~~ provide ~~other~~ security to ensure that he or

7 she will make those improvements within a reasonable time. The subdivider may

8 construct the project in such phases as the governing body approves, which approval

9 may not be unreasonably withheld. If the subdivider's project will be constructed in

10 phases, the amount of ~~any surety bond or other~~ security required by the governing

11 body shall be limited to the phase of the project that is currently being constructed.

12 The governing body may not require that the subdivider provide any security for

13 improvements sooner than is reasonably necessary before the commencement of the

14 installation of the improvements. If the governing body of the town or municipality

15 requires a subdivider to ~~execute a surety bond or~~ provide ~~other~~ security under this

16 paragraph, the governing body may not require the subdivider to maintain the

17 surety bond or other security for more than 12 months after the date the public

18 improvements are substantially completed and upon substantial completion of the

19 public improvements, the amount of the surety bond or other security that the

20 subdivider is required to maintain may be no more than the lesser of the following:

***NOTE: Please consider whether this language will achieve your intent in situations where the subdivider is constructing the project in phases.

1 **SECTION 2.** 236.13 (2) (a) 1. a. and b. of the statutes are created to read:

2 236.13 (2) (a) 1. a. An amount that is equal to the total value of any guarantees
3 or warranties related to the completed public improvements.

4 Not (b. An ^{an} amount equal to the total cost to complete any uncompleted public
5 improvements plus 10 percent of the total cost of the completed public improvements.

6 **SECTION 3.** 236.13 (2) (a) 2. of the statutes is created to read:

7 236.13 (2) (a) 2. For purposes of subd. 1., public improvements required under
8 this paragraph ^{if reasonably necessary for a project or a phase of a project} are considered to be substantially completed at the time the binder
9 coat is installed on roads to be dedicated or, if the required public improvements do
10 not include a road to be dedicated, at the time that 90 percent of the public
11 improvements by cost are completed.

12 **SECTION 4. Initial applicability.**

13 (1) This act first applies to a preliminary plat or, if no preliminary plat is
14 submitted, a final plat, that is submitted on the effective date of this subsection.

15 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3667/P3ins
FFK:.....

ANALYSIS INSERT

¶ Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made in connection with a project or a phase of a project. This bill explicitly allows the subdivider to choose whether to satisfy such a requirement with a performance bond or a letter of credit. Additionally, under the bill, upon substantial completion of required public improvements, an approving authority may not require a subdivider to maintain security in an amount that is more than the total cost to complete any public improvements that are not completed plus ten percent of the total cost of the completed public improvement and may not require the subdivider to maintain the security for more than 12 months from the date the public improvements are substantially completed. The bill defines substantial completion as when the binder coat is installed on roads to be dedicated or, in a case where no roads are to be dedicated, when 90 percent of the public improvements by cost are completed.

END ANALYSIS INSERT

INS 2-7

1 It is the subdivider's option whether to execute a performance bond or whether
2 to provide a letter of credit to satisfy the governing body's requirement that the
3 subdivider provide security to ensure that the public improvements are made within
4 a reasonable time.

END INS 2-7

5
6
7
8
9

Barman, Mike

From: Turke, Jon
Sent: Friday, February 14, 2014 3:40 PM
To: LRB.Legal
Subject: RE: Draft review: LRB -3667/P3 Topic: Surety for necessary public improvements

Looks good. Please switch to /1 and jacket for assembly.

Thanks!

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418

From: LRB.Legal
Sent: Thursday, February 13, 2014 8:54 AM
To: Rep.Steineke
Subject: Draft review: LRB -3667/P3 Topic: Surety for necessary public improvements

Following is the PDF version of draft LRB -3667/P3.



No change
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3667/P3

FFK:sac:fs

*In 2-16
Out 2-17*

*1
6 RMR*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- gen cat

- 1 **AN ACT** *to renumber and amend* 236.13 (2) (a); and *to create* 236.13 (2) (a) 2.
2 of the statutes; **relating to:** limiting the security a town or municipality may
3 require as a condition of plat approval.

Analysis by the Legislative Reference Bureau

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to plat. A plat is a map of a subdivision, which is defined under current law as a division of a unit of land by an owner for the purpose of a sale or development and the sale or development results in at least five individual parcels or building sites. Generally, the location of the subdivision determines which approving authority or authorities have the right to approve or reject the plat.

Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made in connection with a project or a phase of a project. This bill explicitly allows the subdivider to choose whether to satisfy such a requirement with a performance bond or a letter of credit. Additionally, under the bill, upon substantial completion of required public improvements, an approving authority may not require a subdivider to maintain security in an amount that is more than the total cost to complete any public improvements that are not completed plus ten percent of the total cost of the completed public improvement and may not require the subdivider to maintain the security for more than 12 months from the date the public improvements are substantially completed. The bill defines substantial completion as when the binder coat is installed on roads to be dedicated

or, in a case where no roads are to be dedicated, when 90 percent of the public improvements by cost are completed.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 236.13 (2) (a) of the statutes is renumbered 236.13 (2) (a) 1. and
2 amended to read:

3 236.13 (2) (a) 1. As a further condition of approval, the governing body of the
4 town or municipality within which the subdivision lies may require that the
5 subdivider make and install any public improvements reasonably necessary or that
6 the subdivider ~~execute a surety bond or provide other~~ security to ensure that he or
7 she will make those improvements within a reasonable time. It is the subdivider's
8 option whether to execute a performance bond or whether to provide a letter of credit
9 to satisfy the governing body's requirement that the subdivider provide security to
10 ensure that the public improvements are made within a reasonable time. The
11 subdivider may construct the project in such phases as the governing body approves,
12 which approval may not be unreasonably withheld. If the subdivider's project will
13 be constructed in phases, the amount of ~~any surety bond or other~~ security required
14 by the governing body shall be limited to the phase of the project that is currently
15 being constructed. The governing body may not require that the subdivider provide
16 any security for improvements sooner than is reasonably necessary before the
17 commencement of the installation of the improvements. If the governing body of the
18 town or municipality requires a subdivider to provide security under this paragraph,
19 the governing body may not require the subdivider to provide the security for more
20 than 12 months after the date the public improvements for which the security is
21 provided are substantially completed and upon substantial completion of the public

1 improvements, the amount of the security the subdivider is required to provide may
2 be no more than an amount equal to the total cost to complete any uncompleted
3 public improvements plus 10 percent of the total cost of the completed public
4 improvements.

5 **SECTION 2.** 236.13 (2) (a) 2. of the statutes is created to read:

6 236.13 (2) (a) 2. For purposes of subd. 1., public improvements reasonably
7 necessary for a project or a phase of a project are considered to be substantially
8 completed at the time the binder coat is installed on roads to be dedicated or, if the
9 required public improvements do not include a road to be dedicated, at the time that
10 90 percent of the public improvements by cost are completed.

11 **SECTION 3. Initial applicability.**

12 (1) This act first applies to a preliminary plat or, if no preliminary plat is
13 submitted, a final plat, that is submitted on the effective date of this subsection.

14 (END)

Knepp, Fern

From: Turke, Jon
Sent: Friday, February 21, 2014 1:48 PM
To: Knepp, Fern
Subject: RE: The Surety Bond bill LRB 3667/p3

Hey Fern-

Could we get this jacketed for the Assembly?

Thanks!

Jon Turke

Office of Rep. Jim Steineke
Assistant Majority Leader
608-266-2418



From: Knepp, Fern
Sent: Thursday, February 20, 2014 4:48 PM
To: Turke, Jon
Subject: RE: The Surety Bond bill LRB 3667/p3

Absolutely.

From: Turke, Jon
Sent: Thursday, February 20, 2014 4:48 PM
To: Knepp, Fern
Cc: Kovach, Robert
Subject: Fwd: The Surety Bond bill LRB 3667/p3

Hey Fern-

Could you please see the email below and release the draft to Senator Lasee's office.

Thanks!

Jon

Sent from my iPhone

Begin forwarded message:

From: "Kovach, Robert" <Robert.Kovach@legis.wisconsin.gov>
Date: February 20, 2014 at 4:42:51 PM CST
To: "Turke, Jon" <Jon.Turke@legis.wisconsin.gov>
Subject: The Surety Bond bill LRB 3667/p3

Dear Jon,

We can move ahead with Brad's plan to introduce this bill with just Lasee/Steineke as co-authors.

Can you forward this email to the drafter as your permission to have a jacketed senate version drafted for Senator Lasee?

Thanks!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512